

Amendment No. 1 to SB1403

Watson
Signature of Sponsor

AMEND Senate Bill No. 1403

House Bill No. 145*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Section 56-7-3113, is amended by deleting the section and substituting:

(a) A person or entity shall not administer the medication or device portion of pharmacy benefits coverage provided by a covered entity or otherwise act as a pharmacy benefits manager in this state unless the person or entity is licensed through the department of commerce and insurance.

(b) To obtain licensure as a pharmacy benefits manager, a person or entity must demonstrate to the department that the person or entity:

- (1) Is authorized to transact business in this state;
- (2) Is financially responsible, as determined by the department; and
- (3) Has not had a prior license to be a pharmacy benefits manager

denied for cause or revoked by the department within five (5) years of the date on which licensure is sought.

(c)

(1) In addition to the showing required by subsection (b), a person or entity seeking licensure as a pharmacy benefits manager shall also provide the following information to the department:

- (A) The person or entity's name, address, telephone number, email address, and website address; and

(B) If the licensure is sought for an entity, the name, address, telephone number, and email address for a contact person.

(2) A material change in the information described in this subsection (c) must be filed with the department within sixty (60) days of the change.

(d)

(1) A person or entity's license as a pharmacy benefits manager must be renewed annually.

(2) In addition to the showing required by subsection (b), a person or entity seeking renewal of a license as a pharmacy benefits manager must demonstrate to the department that the person or entity complied with § 56-7-3119 during the previous licensure period.

(e)

(1) A person or entity seeking licensure as a pharmacy benefits manager shall pay a fee in the amount of one thousand dollars (\$1,000) to the department to obtain the license. A person or entity seeking renewal of a license as a pharmacy benefits manager shall pay a fee in the amount of five hundred dollars (\$500) to renew the license.

(2) Except as provided in subdivision (e)(3), the department shall use fees and fines paid pursuant to this section for purposes of administering this part.

(3) The department may use funds from fees and fines collected under this section that are in excess of the amount needed to administer this part for the purpose of promoting awareness of available substance use disorder treatment resources in this state.

(f)

(1) Failure to obtain licensure or renew a license pursuant to this section while acting as a pharmacy benefits manager in this state constitutes a violation

of this section and is punishable by a fine of two thousand five hundred dollars (\$2,500) per violation.

(2) Each day that a person or entity is in violation of subdivision (f)(1) constitutes a separate violation.

(3) A person or entity assessed a fine pursuant to this section or denied a license or renewal of a license may appeal the fine or denial pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. Tennessee Code Annotated, Title 56, Chapter 7, Part 31, is amended by adding the following as new sections:

56-7-3119.

A pharmacy benefits manager shall ensure that, in the performance of pharmacy benefits management, the best interests of the insured are prioritized above the interests of other parties or entities, including, but not limited to, those of a covered entity, a pharmacy, and a pharmacist, an insurance plan, or a third party administrator.

56-7-3120.

(a) The department of commerce and insurance shall, no later than January 1, 2022, establish by rule a process to receive and process complaints from an insured, a provider, a pharmacist, or a pharmacy that allege a violation of this part by a pharmacy benefits manager.

(b) On or before January 15, 2023, and no later than January 15 each year thereafter, the department of commerce and insurance shall submit to the chief clerks of the senate and house of representatives, and to the legislative librarian, a report containing the following information from the previous calendar year:

(1) The number of complaints received against pharmacy benefits managers;

(2) Statistics on the resolution of complaints and penalties assessed against pharmacy benefits managers; and

(3) Other information and data the department deems relevant to the enforcement of this part.

(c) The department of commerce and insurance shall ensure that no personally identifying information or information protected under law is disclosed in the report required by subsection (b).

SECTION 3. Tennessee Code Annotated, Section 56-7-3105, is amended by deleting the section and substituting:

A contract entered into, amended, or renewed on or after July 1, 2021, must not contain provisions in violation of this part.

SECTION 4. The commissioner of commerce and insurance is authorized to promulgate rules to effectuate the purposes of this act. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, title 4, chapter 5.

SECTION 5. For the purpose of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect July 1, 2021, the public welfare requiring it, and applies to contracts entered into, amended, or renewed, and licenses issued or renewed on or after that date.